



**Greene County
Legislature**

411 Main Street
Suite 408
Catskill, New York 12414

Kevin Lewis
Chairman

**FOR IMMEDIATE DISTRIBUTION
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This Greene County Legislature has had discussions for some time that have included the necessity to change a state law. **What the Legislature has done related to this issue cannot reasonably be characterized as having "discussions."** This would imply that meaningful discourse had taken place which is, unfortunately, not the case. Rather, a few individual Legislators have declared, without supporting evidence, that a shared jail would be "illegal" in NYS. Numerous times, on the record, I have identified County Law §217 and Corrections Law §500 - not "a" but two state laws that can be interpreted to speak in some way to this issue.

We have discussed the likelihood that our state legislators would have prompt success in clearing the way for our sharing a jail facility in Columbia County.

Our recent research has disclosed that more than THIRTY-NINE (39) separate and distinct NYS Laws will each have to be changed to allow the Columbia County Option. **In what was likely an effort to exaggerate, or a misunderstanding of what constitutes a "separate and distinct" NYS law, Mr. Lewis actually counted subsections of the same law as "separate and distinct" NYS laws. There are actually fewer NYS laws enumerated in his list, but a larger number sounds better to support his goal to build an \$80 million jail in Greene County. More importantly, it is ABSOLUTELY NOT A FACT that each of these laws will have to be changed to allow the Columbia County option. Rather, this is one legal opinion - one that is inconsistent with many that I have sought in my work on this project and, in fact, one that differs from the standing Attorney General opinion on the matter (see attached) as well as the NYS Senate attorneys who presumably advised on the current Senate bill which would authorize jointly operated jails in NYS (see attached).**

The length of time that all of this legislation will take cannot be estimated with any degree of certainty. Please keep in mind that our attempts to amend all of these laws will not be undertaken in a vacuum. Powerful interests, adverse to our interests, will oppose each and every effort---possibly defeating them, but certainly significantly delaying them.

This fact **(there is NO FACT presented here, this theory of opposition and delay is just that, a theory)** makes the Columbia County option, NO OPTION at all. Given the cost factor of continued delay **(There is not a "cost factor" of delay in construction as the Legislature voted to apply for a loan from the USDA and in the process to "lock-in" an interest rate. Additionally, what Mr. Lewis overlooks is that the cost to board out inmates of approximately \$75 per inmate per day while a shared jail plan is developed is FAR, FAR LESS than the cost per inmate per day to support our own corrections operational costs.)**, it makes no sense to consider an apparent option which cannot, under reasonable circumstances, be available to us for years.

Below please find a non-exclusive list of New York State Laws identified as laws which would have to be amended to pursue the option of a regional and/or shared jail facility **(again, this represents one legal opinion, that differs from many others and is absolutely NOT FACT):**

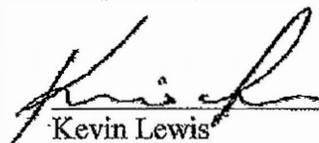


1. County Law §217 Every county shall maintain a jail
2. County Law §405(2) Outgoing Sheriff transfer of inmates
3. County Law §652 Sheriffs appointment of keepers, guards, employees
4. County Law §659 Sheriff maintains all jail records
5. Corrections Law §2(16) Definition of local correctional facility
6. Corrections Law §40(2) Local correctional facility definition
7. Corrections Law §40(4) Defines Sheriff as the municipal officer in charge of jail
8. Corrections Law §91(2) Agreements between/with Sheriff and County Chief Officer
9. Corrections Law §120 Sheriff's duty to maintain custody and supervision of persons detained or confined
10. Corrections Law §500(a) Sheriff's authority and jurisdiction to house people remanded to his care and custody
11. Corrections Law §500(c) (1) Sheriff of each county shall have custody of the county Jail of such County
12. Corrections Law §500(c) (3) Commitment to Custody of the Sheriff
13. Corrections Law §500(c)4 Sheriff's duty to keep detainee safe
14. Corrections Law §500(c)(7) Sheriff maintains the institutional funds account on behalf of every lawfully sentenced inmate or person in his custody
15. Corrections Law §500(c)(8) Sheriff of County to provide written notice to report funds to the office of victims services
16. Corrections Law §504 Designation of substitute jail
17. Corrections Law §509 Sheriff or designee may allow funeral or death bed visits
18. Corrections Law §524 Bail revocation must be served upon Sheriff of County
19. Corrections Law §600(a) Jail time record (time served) maintained by the Sheriff
20. Criminal Procedure Law § 210.10(1) Methods of securing defendants appearance
21. Criminal Procedure Law § 210.15(6) Arraignment upon indictment – Custody of Sheriff
22. Criminal Procedure Law §330.20 not guilty by reason of mental defect – Sheriff to hold defendant in custody until designation by Commissioner of Mental Hygiene
23. Criminal Procedure Law § 500.10(4) Commit to the custody of the Sheriff
24. Criminal Procedure Law § 500.10(7) Bail application – custody of Sheriff
25. Criminal Procedure Law § 510.10 Securing order – custody of Sheriff
26. Criminal Procedure Law § 510.15 Custody of Sheriff on commitment of JD
27. Criminal Procedure Law § 510.20 Securing order – custody of Sheriff
28. Criminal Procedure Law § 510.30 Bail application – custody of Sheriff
29. Criminal Procedure Law § 510.50 – Enforcement of securing order
30. Criminal Procedure Law §520.15 – Cash bail
31. Criminal Procedure Law §530.12 Protect for victims of family offences – custody of Sheriff
32. Criminal Procedure Law §530.45 Order after conviction – custody of Sheriff
33. Criminal Procedure Law §530.60 Revocation of ROR – custody of the Sheriff
34. Criminal Procedure Law §530.80 Order of Recog. or Bail, defendant surrender
35. Executive Law §259-1(3)(b) Requires persons taken into custody for parole violations be incarcerated in the county where the arrest occurs
36. Penal Law §130.05(3)(f) Sex offense and lack of consent will not apply outside of County
37. Education Law §3202(7) Services to be provided to those under 21 in a correctional facility maintained by a county
38. Judiciary Law §751 Punishment for criminal contempt must be imprisonment in the jail of the county where the court is sitting
39. Civil Service Law §201(6) Sheriff and County are joint employers

1992 Opinion of New York State Attorney General which states that the courts have regularly held that the duty to “receive and safely keep” such persons cannot be delegated by the Sheriff”, referring to “prisoner confined in jail”.

In my humble opinion, based upon the above, the Columbia County option is unrealistic.

Respectfully,



Kevin Lewis
Chairman,
Greene County Legislature